



Bagley-Keene Open Meeting Act

Training for State
Boards and Commissions

Purpose of **Open Meeting Act**

- Promotes an open consensus-building model of decision-making
- Ensures the public a seat at the table



State Bodies: **Statutory or Executive Bodies**

- A multimember state body created by statute or executive order



State Bodies: **Advisory Bodies**

- Advisory body created by state body
 - Subcommittees, task forces, advisory committees, etc.
 - Three (3) or more members
 - Advisory not decision-making
 - Created by official action of state body or state body member, includes impromptu state bodies



State Bodies: **Delegated Bodies**

- Delegated body created by state body
 - A body that exercises delegated authority
 - Two (2) or more members



State Bodies: **Bodies with Official Representative**

- Public or private body funded by state body with a member serving in one's official capacity



New Members

- Persons appointed to board or commission are treated as “members” upon appointment even before being sworn in



What is a **meeting**?

- Gathering of a majority of members of a state body
- Includes all phases of decision-making from information gathering to final vote

Prohibition: **Serial Meeting**

Members of a state body must avoid serial communications outside of a public meeting among a quorum of members or through an intermediary

Prohibition applies to ALL forms of communication



Exception: **Staff Briefing**

Staff may brief or respond to questions from individual board members

Staff may not share communications from a board member with any other board member



What is not a **meeting**?

- Communication with one other person (but not a serial meeting)
- Exceptions for some events at which a quorum is present (e.g., public conferences, public meetings, social events, standing committee meetings)



Meeting Notice Rules

- 1 Agenda must be posted on website ten (10) calendar days before meeting
- 2 Must provide notice in writing to anyone who requests it
- 3 Brief description of particular matters to be discussed
- 4 Must give the average person enough information to decide whether to attend or participate in the meeting
- 5 Notice must be provided in alternative formats upon request by any person with a disability
- 6 May not add items to agenda during 10-day notice period
- 7 **Exceptions:** Emergency (majority vote) or need to take immediate action (2/3 vote)



Teleconference Meetings

Traditional Teleconference Exception

At least one member must participate from the primary physical location.

Every remote location must be disclosed in the notice, open for public participation, and ADA-compliant.

No sunset provision.



Pandemic-era/SB 143 Teleconference Exception:

Allows virtual meetings with zero in-person requirements.

Remote locations do not have to be disclosed or open to the public.

Public must be able to observe and participate remotely.

Expires Dec. 31, 2023.



SB 544's New Teleconference Exception:

Operative January 1, 2024, through January 1, 2026.

A quorum of members must participate from single physical location that is open for public participation and is ADA compliant.

Remaining members may participate from remote, private locations.

Public participation must be available at physical location, and via telephone and internet/online platform.

Members with a disability who cannot be accommodated may participate from private location and still count towards quorum at physical location.

Members must be visible on video at all times and disclose other persons in room.

Rights of the Public

- Right to Participate at Public Meetings
 - No identification required
 - Limits on public comment should be fair, impartial, and in furtherance of public participation

Rights of the Public

- Right to Access Public Meeting Records
 - Best practice is to post agency's public meeting records on website before meeting
 - Some records may be exempt from disclosure

Rights of the Public

- Right to Monitor Votes of Each Member
 - Vote or abstention of each member on each item must be publicly reported
 - Best practice is to vote by roll call and report votes in meeting minutes



Closed Sessions

General rule: all meetings open to the public

Closed sessions must be expressly authorized

Some exceptions are limited to particular agencies.



Exception: Pending Litigation

- State body is a party, wants to initiate, or has significant exposure.
- Confer with or receive advice from its legal counsel in open session would prejudice position of agency in litigation.
- If litigation initiated, agenda must include title of case.
- Information from closed session is confidential and may not be disclosed to any outside parties.
- Confidentiality is board/commission's privilege, not that of individual members.



Closed Sessions: Procedures

1	Specific notice requirements on agenda
2	Specific pre-convening and post-convening requirements
3	Brief description of particular matters to be discussed
4	Board members may not stray into other topics, even if related
5	Board members must keep closed session discussion confidential



Penalties and Enforcement

Violations may result in criminal and civil penalties and attorney fee awards

Governmental decision may be invalidated



More Information

- Additional resources are available on the Department's website at oag.ca.gov/open-meetings